DETAILED ACTION

1. The Final Rejection of 11 May 2009 is hereby withdrawn.

2. Applicant's Amendment filed 11 February 2009 is acknowledged.

3. Claims 1-14 are pending in the present application.

4. This action is made FINAL.

Withdrawal of Last Office Action

5. The Final Rejection of 11 May 2009 is hereby withdrawn.

A Supervisory Patent Examiner (SPE) has approved of this corrected Final

Action by signing below:

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7.   Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Hasegawa et al. (US 6928261 B2) in view of Nishimoto et al. (US 20020000156 A1) and

in further view of Dewing et al. (US 20040068532 A1).

Consider claims 1, 5, 6 and 10-14. Hasegawa et al. discloses a content delivery

apparatus comprising a storage section that stores content material to be delivered to a

client terminal (("According to one aspect of the present invention, there is provided a

music data distribution system for distributing music data to an external device

connected to a network, comprises: a storage device that stores first music data; a

receiver that receives a music data distribution request from the external device

connected to the network, the music data distribution request comprising at least music

data identification information and music data quality information; a reading device that

reads the first music data from said storage device in accordance with the music data

identification information; a quality converter that converts the first music data into

second music data ...") Hasegawa et al., column 2 lines 3-14); a client terminal

identification section that determines a type of a client terminal to which content is to be

delivered (("The music data request information RI and terminal information TI are

integrated as one data block as shown in FIG. 5. The music data request information to

be entered by the user contains the information for identifying music data desired to be

downloaded, such as a music program name and a singer name of the music data. The

terminal information TI is stored beforehand in ROM 12 or the external storage unit 16

of the user terminal 4, and contains the information for identifying the product type of the

user terminal 4, such as the product type name specific to the user terminal 4.")

Hasegawa et al., column 6 lines 31-41); a first content creation section that, on the

basis of a determination, by said client terminal identification section, that said client

terminal to which content is to be delivered is of a type capable of using said first

content material of said first format, creates single composite content to be delivered to

said client terminal which includes said first content material of said first format and said

second content material (("According to another aspect of the invention, there is

provided a music data distribution system for distributing music data to an external

device connected to a network, comprises: a storage device that stores first music data;

a receiver that receives a music data distribution request from the external device

connected to the network, the music data distribution request comprising at least music

data identification information and device identification information; a searching device

that searches the first music data from said storage device in accordance with the music

data identification information; a quality determiner that determines a quality of said

music data which can be reproduced by said external device; and a transmitter that

transmits information displayed on a display of said external device for promoting

purchase of said music data with the quality determined by said quality determiner to

said external device.") Hasegawa et al., column 2 lines 19-35); a second content

creation section that, on the basis of a determination, by said client terminal

identification section, that said client terminal to which content is to be delivered is of a

type incapable of using said first content material of said first format, converts said first

content material of said first format into a first content material of a second format

capable of being used by said client terminal and then creates single composite content

to be delivered to said client terminal which includes the converted first content material

of said second format and said second content material (("… a quality converter that

converts the first music data into second music data having a quality different from the

first music data in accordance with the music data quality information; …") Hasegawa et

al., column 2 lines 13-16); and a content delivery section that delivers, to said client

terminal, the composite content created by said first content creation section or said

second content creation section (("… and a transmitter that transmits the first or the

second music data to the external device in accordance with contents of the music data

distribution request.") Hasegawa et al., column 2 lines 16-18). However, Hasegawa et

al. fails to explicitly show a first and a second content data, or encrypting content.

Nishimoto et al. discloses music data as either scores or pieces. This reads on "… at

least one first content material and at least one second content material … said first

content material being of a predetermined first format." (("… musical composition

information of a single music piece with the received melody information used as a motif

thereof; other melody information made by modifying the received melody information; information made by converting waveform data of the received melody information into tone-generator driving information of a predetermined format; and musical score picture information corresponding to at least one of the information listed above.") paragraph 0037). Nishimoto et al. further discloses encrypting data (("Further, the data to be communicated in the present invention may be of any desired format. For example, the music piece data may be based on the MIDI standard (e.g., SMF: Standard MIDI File) or other format (e.g., format specific to the maker or manufacturer). The musical score data may be image data (e.g., bit map), may be of any other suitable format (e.g., file format capable of being handled by predetermined score-creating or score-displaying software), may be electronic data, or may be printed on a sheet of paper or the like; if the musical score data are electronic data, they may be either in a compressed form or in a non-compressed form. Furthermore, the data may be encrypted or imparted with an electronic signature. Moreover, the data format of content may be selected as desired by the user, and data of a plurality of formats may be delivered simultaneously.") paragraph 0137). Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate musical pieces and musical scores and encrypting data as taught by Nishimoto et al. with first and second content data stored in a storage device as taught by Hasegawa et al. for the purpose of interactive multimedia. However, Hasegawa et al., as modified by Nishimoto et al. fails to disclose a method wherein a transmission section that transmits, to a client terminal, a list of titles of a plurality of composite content; a delivery request reception section that

receives, from the client terminal, a request for delivery of one composite content

selected via the client terminal from said list of titles: a storage section that stores

plurality of first content material and at least one second content materials of a first

format and a plurality of second content materials a first content material extraction

section that, in response to the request for delivery, extracts a first content material to

be contained in the requested one composite content from among the plurality of first

content materials stored in said storage section: a second content material extraction

section that, in response to the request for delivery, extracts a second content material

to be contained in the requested one composite content from among the plurality of

second content materials stored in said storage section. Dewing et al. discloses a

system for supporting production, management and delivery of media content for

wireless devices comprising a method wherein a transmission section that transmits, to

a client terminal, a list of titles of a plurality of composite content; a delivery request

reception section that receives, from the client terminal, a request for delivery of one

composite content selected via the client terminal from said list of titles (("The manage

content interface (FIG. 14) provides a list of titles currently in the category, and allows

for the addition of titles. Selecting the "add titles" option causes the system to present a

title selector interface (FIG. 15). This interface allows the contact 94 to select a title from

the list of available content for the platforms, products and networks associated with this

category and catalog. The available list is further restricted based on the rating for the

title. The contact can view this available list of titles in a number of ways.") paragraph

0127); a storage section that stores plurality of first content material and at least one

second content materials of a first format and a plurality of second content materials; a

first content material extraction section that, in response to the request for delivery,

extracts a first content material to be contained in the requested one composite content

from among the plurality of first content materials stored in said storage section: a

second content material extraction section that, in response to the request for delivery,

extracts a second content material to be contained in the requested one composite

content from among the plurality of second content materials stored in said storage

section (("In a first aspect, the invention relates to a system for making one or more

pieces of media content available for delivery to an end-user device. The system

includes a file server with a plurality of media content files stored therein and a

database. The database associates content type attributes with each of the media

content files and attribute capability constraints with the end-user device. The attribute

capability constraints prescribe a range of acceptable values for content type attributes.

The system also includes a first rules engine that creates an available library of media

content that excludes all media content that have content type attributes outside the

range of acceptable values. In another aspect of the system, the database associates a

carrier network with the end-user device. The carrier network, in turn, has an associated

delivery channel capacity. The system further includes a second rules engine adapted

to refine the available library to exclude all media content not supported by the delivery

channel of the end-user device.") paragraphs 0008-0009).

Therefore, it would have been obvious for a person of ordinary skill in the art at

the time the invention was made to incorporate a method wherein a transmission

section that transmits, to a client terminal, a list of titles of a plurality of composite content; a delivery request reception section that receives, from the client terminal, a request for delivery of one composite content selected via the client terminal from said list of titles: a storage section that stores plurality of first content material and at least one second content materials of a first format and a plurality of second content materials a first content material extraction section that, in response to the request for delivery, extracts a first content material to be contained in the requested one composite content from among the plurality of first content materials stored in said storage section: a second content material extraction section that, in response to the request for delivery, extracts a second content material to be contained in the requested one composite content from among the plurality of second content materials stored in said storage section as taught by Dewing et al. with musical pieces and musical scores and encrypting data and first and second content data stored in a storage device as taught by Hasegawa et al., as modified by Nishimoto et al., for the purpose of content delivery methods.

Consider claims 4 and 9, and as applied to claims 1 and 6 above. Hasegawa et al., as modified by Nishimoto et al. and Dewing et al., discloses a content delivery apparatus comprising: a storage section that stores a plurality of the first content materials and a plurality of the second content materials (("A music data distribution apparatus connected to a network for distributing music data to an external device, the apparatus comprising: a storage device that stores a plurality of music data;")

Hasegawa et al., column 14 lines 37-40), and wherein at least one first content material and at least one second content material to be delivered to said client terminal are read out from said storage section in response to a request made by said client terminal ((" According to one aspect of the present invention, there is provided a music data distribution system for distributing music data to an external device connected to a network, comprises: a storage device that stores first music data; a receiver that receives a music data distribution request from the external device connected to the network, the music data distribution request comprising at least music data identification information and music data quality information; a reading device that reads the first music data from said storage device in accordance with the music data identification information; a quality converter that converts the first music data into second music data having a quality different from the first music data in accordance with the music data quality information; and a transmitter that transmits the first or the second music data to the external device in accordance with contents of the music data distribution request.") Hasegawa et al., column 2 lines 3-18).

Consider claims 2 and 7, and as applied to claims 1 and 6 above. Hasegawa et al., as modified by Dewing et al., discloses a content delivery apparatus wherein said first content material and second content material is delivered to a client in a predetermined format. However, Hasegawa et al., as modified by Dewing et al., fails to teach of the data comprising musical format. Nishimoto et al. discloses a music data distribution system comprising musical pieces and scores. This reads on "A content

delivery apparatus wherein said first content material is musical score data, and said second content material is music piece data." (("Outlining the fourth aspect, the content information created by the processor device and having the additional value imparted thereto includes at least one of: harmony information matching with the received melody information; backing information matching with the received melody information; left-hand performance information matching with the received melody information, with the received melody information assumed to be performance information generated through a performance on a keyboard-based musical instrument by a right hand; both-hand performance information matching with the received melody information; performance expression information for the received melody information; musical composition information of a single music piece with the received melody information used as a motif thereof; other melody information made by modifying the received melody information; information made by converting waveform data of the received melody information into tone-generator driving information of a predetermined format; and musical score picture information corresponding to at least one of the information listed above.") paragraph 0037).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a music data distribution system as taught by Nishimoto et al. with a content delivery apparatus as taught by Hasegawa et al., as modified by Dewing et al., for the purpose of electronic file delivery.

Consider claims 3 and 8, and as applied to claims 2 and 7 above. Hasegawa et al., as modified by Dewing et al., discloses a content delivery apparatus wherein said first content material and second content material is delivered to a client in a predetermined format. However, Hasegawa et al., as modified by Dewing et al., fails to teach of data comprising musical format wherein musical pieces and musical scores correspond. Nishimoto et al. discloses a music data distribution system comprising musical pieces and scores that correspond with each other. This reads on "A content delivery apparatus as claimed in claim 2 wherein the musical score data and the music piece data correspond to each other in musical contents." (("On the "Parameter 2" input screen of FIG. 6, the user enters various parameters necessary for creating music piece data of the left-hand performance part in response to the selective designation on the "Parameter 1" input screen of FIG. 5. In the illustrated example of FIG. 6, selections have been made for setting the difficulty level to the "Beginner's Level" and the rendition style to "Arpeggio" and for imparting "Intro" and "Ending" sections to the melody. In response to the selections on the "Parameter 2" input screen, the server 3 is caused to create music piece data and corresponding musical score data of the beginner's level in such a way that an arpeggio is imparted as the rendition style and intro and ending sections are imparted to the melody.") paragraph 0074).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate corresponding musical pieces with musical scores as taught by Nishimoto et al. with a content delivery apparatus as taught by Hasegawa et al., as modified by Dewing et al., for the purpose of multimedia content.

Response to Arguments

8.   Applicant's arguments filed 11 February 2009 with respect to claims 1-14 have

been considered but are not persuasive.

        Applicant argues that Hasegawa et al., as modified by Nishimoto et al. and

Dewey et al., fails to disclose transmitting a plurality of titles to a client terminal, and, in

response to a selection of one of the titles, transmit to the client terminal composite

content material that is composed of first and second content materials (which are

separately extracted from a database), wherein the first content material is converted to

a different format before combining it with the second material on an as necessary

basis.

        Examiner respectfully disagrees. The rejection was a U.S.C. 103(a) combination.

The Dewing et al. reference alone teaches a combination of raw metadata and media

content (read as first and second content materials) that are extracted separately from a

database (("The system includes an engine 10 with various database related

components and server related components working in conjunction to provide a library

of media content. Database related components include a database system 12 which

stores metadata of the media content while the server system includes a file server

system 13 which stores the actual media content. The metadata in the database system

12 includes a uniform resource locator (URL) to the media content in the file server

system 13. In a preferred configuration of the system, the database system 12 includes

at least two production databases 12a to provide a level of redundancy and an

additional replication server database 12b to manage and synchronize the redundant

databases. In one configuration, the redundant databases are Sun 420 RS boxes

running on the Sun Solaris operating system and the replication server database is a

Sun 220 box running Sybase database software. The filer servers 13 are Intel 2U, 1

GHz dual processor CPUs running the Linux operating system.") Dewing et al.,

paragraph 0034); a content file associated with musical content whose content type is

assigned attributes (read as a plurality of musical title selections) (("With reference to

FIGS. 5 and 6, various pieces of information are associated with each piece of content,

including content type (audio/Nokia Proprietary, audio/Motorola Proprietary) status

(active), deliverable (yes), performance (Who Let the Dogs Out) and several content

attributes. These pieces of information are fields in the content record. The content

attributes relate to the content media file itself and include, for example, the byte count

of the content file and the highest and lowest notes within a media file and dimensions

and bit depth in the case of graphics. A content file also may include attributes related to

territorial licensing. Each content file's associated attributes and information are stored

in a content database file in the database 12a (FIG. 1). The actual data is stored on a

file server referenced from the database. Additional details on the content field entries

are described under the following C2DMA section.") Dewing et al., paragraph 0047

("The C2DMA provides a metadata model allowing each unique piece of content 34 in

the system to be described in such a way that it can be reused. A content type 50

represents a formal declaration of a specific type of content 34 along with a generic

description of its possible attributes. Each of the attributes is defined by an instance of

the content type attribute 52 class. A content type attribute 52 has a name, a datatype,

and a field denoting whether the attribute must be assigned to all content of that type.

Note that content type attributes 52 are not meant to provide metadata for the original

media title (such as artist, album, etc.), but instead describe details of the electronic

media produced. For example, an MP3 file can be stereo or mono, has a bit rate in

Kbps or has a variable bit rate with a maximum. In this case a content type "audio/mp3"

would be created, with content type attributes named "stereo" (type boolean),

"bitRateKbps" (type integer), and "variableBitRate" (type boolean). All three would most

likely be marked as required database entries.") Dewing et al., paragraph 0051); the raw

content is converted as per the details of the client device (read as converted to a

different format) (("With reference to FIG. 7b, each specific converter 142 encapsulates

business logic for translating raw content 34 data to the format specified by the

encoding, taking into account the details of the end-user device 58 (FIG. 7a) and

network 74. The transformed content is an instance of the payload 160 class. A payload

160 is the customized version of media content 34 for a particular end-user device on a

particular delivery network.") Dewing et al., paragraph 0075); and delivers, via a

payload, the combined content to a queue (read as combining a first and a second

material) (("Upon receiving the request, the request handler 140 repackages the

requests into a standard form and forwards it to the broker/converter 142. The request

handler 140 also sends a content delivery response to the client-server, which contains

the following fields. The code for an exemplary content response and its related schema

is shown in FIG. 20. Content Delivery Response--the enclosing tag denoting that this is

a content delivery response: Moviso Transaction--a transaction associated to this

content delivery request; Id--the transaction id; Client Transaction--a transaction Id used

by the client for tracking this content delivery request; Id--the transaction id. With

reference to FIG. 7b, the broker/converter 142 translates the raw content 34 into a

payload 160, i.e., a format specified by the encoding requirements/delivery format 162

used by the delivery channel 78 of the carrier network identified in the content request.

The final payload 160 is placed in a que in the broker/converter 142 before being

forwarded to the distributor 144 for transmission over the carrier's delivery network 74.")

Dewing et al., paragraphs 0201-0207).

        Applicant argues that Hasegawa et al., as modified by Nishimoto et al. and

Dewey et al., fails to disclose authoring "composite material", not to mention, inter alia,

the transmission section as recited in the pending claims.

        Examiner respectfully disagrees. The Dewing et al. reference teaches a system

and method wherein raw metadata, through defined attributes, gets transformed into

audio MP3 (read as authoring composite material) ("The C2DMA provides a metadata

model allowing each unique piece of content 34 in the system to be described in such a

way that it can be reused. A content type 50 represents a formal declaration of a

specific type of content 34 along with a generic description of its possible attributes.

Each of the attributes is defined by an instance of the content type attribute 52 class. A

content type attribute 52 has a name, a datatype, and a field denoting whether the

attribute must be assigned to all content of that type. Note that content type attributes

52 are not meant to provide metadata for the original media title (such as artist, album,

etc.), but instead describe details of the electronic media produced. For example, an

MP3 file can be stereo or mono, has a bit rate in Kbps or has a variable bit rate with a

maximum. In this case a content type "audio/mp3" would be created, with content type

attributes named "stereo" (type boolean), "bitRateKbps" (type integer), and

"variableBitRate" (type boolean). All three would most likely be marked as required

database entries.") Dewing et al., paragraph 0051); the raw content is converted as per

the details of the client device (read as converted to a different format) (("With reference

to FIG. 7b, each specific converter 142 encapsulates business logic for translating raw

content 34 data to the format specified by the encoding, taking into account the details

of the end-user device 58 (FIG. 7a) and network 74. The transformed content is an

instance of the payload 160 class. A payload 160 is the customized version of media

content 34 for a particular end-user device on a particular delivery network.") Dewing et

al., paragraph 0075); and a content delivery (read as transmission section) method

(("With reference to FIG. 7b, the broker/converter 142 translates the raw content 34 into

a payload 160, i.e., a format specified by the encoding requirements/delivery format 162

used by the delivery channel 78 of the carrier network identified in the content request.

The final payload 160 is placed in a que in the broker/converter 142 before being

forwarded to the distributor 144 for transmission over the carrier's delivery network 74.")

Dewey et al., paragraph 0207).

Conclusion

9.   **THIS ACTION IS MADE FINAL**. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any response to this Office Action should be faxed to (571) 273-8300 or mailed

to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the

Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

Mark Fearer
/M.D.F./
September 16, 2009

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443